

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN MURRAY,

Defendant.

Case No. 2:22-cv-01372-HL

**ORDER ADOPTING F&R AND
DENYING DEFENDANT’S REQUEST
FOR STAY OF DECISION**

Gillian L. Bunker, Assistant United States Attorney, and William M. Narus, Acting United States Attorney, District of Oregon, 1000 SW Third Avenue, Suite 600, Portland, OR 97204. Attorneys for Plaintiff.

John Murray, Portland, OR 97230. Defendant pro se.

IMMERGUT, District Judge.

Plaintiff United States of America (“United States”) brings this action against Defendant John Murray, proceeding pro se, seeking a declaratory judgment defining the rights and responsibilities of the parties for the structures, equipment, and property at Spout Springs Mountain Resort. Complaint, ECF 1 at 1. Now before the Court is the United States’ Motion for Summary Judgment (“MSJ”), ECF 40, the United States’ Motion in Limine (“MIL”) to preclude

Murray from introducing certain evidence, ECF 43, and Defendant Murray’s request to amend his Answer, Opposition to MIL, ECF 45 at 2 n.2.

Magistrate Judge Hallman issued his Findings and Recommendations (“F&R”) recommending that this Court grant the United States’ Motion for Summary Judgment, deny the United States’ Motion in Limine as moot, and deny Murray’s request to amend his Answer. ECF 60. Murray timely filed Objections to the F&R, primarily requesting that this action be stayed pending the resolution of his separate breach of contract action against the United States before the U.S. Federal Court of Claims. ECF 62. The United States responded to Murray’s objections and request, arguing a stay is unwarranted. ECF 63. After de novo review of the objected-to portions of the F&R, this Court adopts the F&R and denies Defendant’s request to stay Judge Hallman’s decision granting summary judgment.

Under the Federal Magistrates Act (“Act”), as amended, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). If a party objects to a magistrate judge’s F&R, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R that are not objected to. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act “does not preclude further review by the district judge, *sua sponte*” whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

In Murray’s objections to Judge Hallman’s F&R, he requests a stay of this action pending resolution of his separate breach of contract action against the United States in the U.S. Court of

Federal Claims. Objections, ECF 62 at 3. This Court is mindful that the Court of Appeals for the Federal Circuit is currently reviewing Murray's appeal of the Court of Federal Claims' dismissal of that action as time-barred. *See Murray v. United States*, No. 23-2287, (Fed. Cir. argued Jan. 10, 2025). This Court agrees with Judge Hallman's prior Order, ECF 27, that the request to stay should be denied at this late stage of this case due to the uncertain timing of the Federal Circuit's decision and the unclear effect that decision would have on the present action. The likelihood of delay and prejudice to the United States due to several recent incidents of theft and vandalism at the property favor denying Murray's request to stay. *See Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1100 (9th Cir. 2005).

CONCLUSION

Judge Hallman's F&R, ECF 60, is ADOPTED in full, and Murray's request to stay is DENIED. Murray's request to amend his Answer is DENIED, the United States' Motion for Summary Judgment, ECF 40, is GRANTED, and the United States' Motion in Limine, ECF 43, is DENIED as moot. The parties should file a jointly proposed form of judgment within fourteen (14) days of the issuance of this Order.

IT IS SO ORDERED.

DATED this 10th day of July, 2025.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge